

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

W. 6 RESTAURANT GROUP LTD.,)	CASE NO. 1:17 CV 2521
d/b/a Barley House of Cleveland,)	
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
vs.)	
)	<u>OPINION AND ORDER</u>
RICHARD BENGTON, et al.,)	
)	
Defendants.)	

This case is before the Court on Plaintiffs' Motion to Remand. (**Doc #: 5.**) For the following reasons, the Court **DENIES** the Motion.

I.

On December 1, 2017, Plaintiffs W. 6 Restaurant Group Ltd., which owns and operates The Barley House Cleveland ("Barley House"), and Richie Madison, a security guard for Barley House, filed a Verified Complaint in state court against Defendants Richard Bengtson and Alissa Violet Butler. The Complaint alleges that Defendants visited Barley House on the evening of Saturday, November 25, 2017, and remained on the property past normal business hours until security personnel were forced to remove them from a restricted area of the property at approximately 2:30 a.m. on Sunday, November 26, 2017. The Complaint further alleges that Defendants were physically and verbally combative with Barley House security personnel as they were escorted off the property, and that they continued to engage in altercations with third

parties while lingering outside the Barley House premises. The Complaint alleges that Defendants, who have millions of followers across numerous social media platforms, used their online fame to engage in a cyber-bullying campaign against Plaintiffs, Barley House employees, and their patrons. As a result, Plaintiffs filed the following state-law claims against Defendants: defamation, false light, intrusion upon seclusion, tortious interference with business relationships, intentional infliction of emotional distress, assault, and battery--seeking compensatory and punitive damages and preliminary and permanent injunctive relief.

On November 30, 2017, Plaintiffs obtained an *ex parte* Temporary Restraining Order against Defendants from the state court judge that enjoins them from, among other things, disseminating false or misleading information about the incident, publishing any statements, videos, or images on social media platforms concerning Plaintiffs, their employees and patrons, continuing to engage in their cyber-bullying and cyber-attack campaigns, being present within 500 feet of Barley House, and having any type of contact with Barley House and its employees.

On December 4, 2017, Defendants removed the case to federal court based on the Court's diversity jurisdiction over the state law claims, asserting that Plaintiffs are Ohio citizens and, although the Complaint states that Defendant Butler is a resident of Ohio where she grew up, Defendants are both citizens of California. They simultaneously filed an Emergency Motion to Dissolve Temporary Restraining Order. (Doc #: 3.)

On December 5, 2017, Plaintiffs filed the pending Motion to Remand. **(Doc #: 5.)** Plaintiffs claim that Butler is in fact domiciled in Ohio because she was born in Ohio, graduated from Brunswick High School in 2014, the State of Ohio issued her last driver's licence at her parents' address, and her car was purchased in Ohio and registered to her parents' address. (Id.)

On December 7, 2017, Defendants filed an opposition to the Motion wherein Defendant Butler formally declares that she has resided in Southern California since June 3, 2015, her driver's license was issued to her by the State of California in 2016 (a picture of her current license is attached), she no longer owns the car that was registered in Ohio, her money and bank account are located in California, and she visits her family in Ohio about 3 to 4 times a year. (Doc #: 12.)

II.

Based on Defendant Butler's declaration and evidence, the Court **DENIES** Plaintiffs' Motion to Remand. (**Doc #: 5.**) Should discovery show that Butler still lives in Ohio, however, the Court will remand the case.

IT IS SO ORDERED.

/s/ Dan A. Polster December 12, 2017
Dan Aaron Polster
United States District Judge